

AMENDED IN ASSEMBLY APRIL 3, 2000

CALIFORNIA LEGISLATURE—1999–2000 REGULAR SESSION

**ASSEMBLY BILL**

**No. 2708**

**Introduced by Assembly Member Wesson**

February 25, 2000

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An act to amend Sections 16500, 16501, ~~and 16600~~ 16600, and 53635 of the Government Code, relating to ~~state~~ *government* funds.

LEGISLATIVE COUNSEL'S DIGEST

AB 2708, as amended, Wesson. State deposits.

Existing law governs the deposit of funds belonging to or in the custody of the state *and local agencies* in eligible banks, savings and loans associations, and credit unions.

This bill would revise the definitions of an eligible bank, savings and loan association, and credit union to include receipt of an overall rating of not less than “satisfactory” in the financial institution’s most recent evaluation by the appropriate federal financial supervisory agency of its record of meeting the credit needs of the state’s communities pursuant to federal law.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.

*The people of the State of California do enact as follows:*

1 SECTION 1. Section 16500 of the Government Code  
2 is amended to read:

1 16500. As used in this chapter, “eligible bank” means  
2 a state or national bank located in this state, selected by  
3 the Treasurer for the safekeeping of money belonging to  
4 or in the custody of the state, that has received an overall  
5 rating of not less than “satisfactory” in its most recent  
6 evaluation by the appropriate federal financial  
7 supervisory agency of the bank’s record of meeting the  
8 credit needs of the state’s communities, including low-  
9 and moderate-income neighborhoods, pursuant to  
10 Section 2906 of Title 12 of the United States Code. An  
11 eligible bank is eligible to receive deposits only to the  
12 extent that it furnishes the security required by this  
13 chapter.

14 SEC. 2. Section 16501 of the Government Code is  
15 amended to read:

16 16501. Under the conditions as the Treasurer with the  
17 approval of the Director of Finance may establish, the  
18 Treasurer may deposit money in banks outside this state  
19 when the banks are fiscal agents of the state or custodians  
20 of securities owned by the state, if the banks have an  
21 overall rating of not less than “satisfactory” in their most  
22 recent evaluation by the appropriate federal financial  
23 supervisory agency of the banks’ record of meeting the  
24 credit needs of the ~~state’s—communities~~ *communities in*  
25 *which the bank is located*, including low- and  
26 moderate-income neighborhoods, pursuant to Section  
27 2906 of Title 12 of the United States Code.

28 SEC. 3. Section 16600 of the Government Code is  
29 amended to read:

30 16600. (a) As used in this chapter, the following  
31 definitions shall apply:

32 (1) “Eligible savings and loan association” means a  
33 state or federal savings association, as defined in Section  
34 5102 of the Financial Code, located in this state, insured  
35 by the Federal Savings and Loan Insurance Corporation,  
36 and selected by the Treasurer for the safekeeping of  
37 money belonging to or in the custody of the state. An  
38 “eligible savings and loan association” must have  
39 received an overall rating of not less than “satisfactory”  
40 in its most recent evaluation by the appropriate federal

1 financial supervisory agency of the association's record of  
2 meeting the credit needs of the state's communities,  
3 including low- and moderate-income neighborhoods,  
4 pursuant to Section 2906 of Title 12 of the United States  
5 Code.

6 (2) "Eligible credit union" means a state or federal  
7 credit union located in this state, insured by the National  
8 Credit Union Administration, and selected by the  
9 Treasurer for the safekeeping of money belonging to or  
10 in the custody of the state. ~~An "eligible credit union" must~~  
11 ~~have received an overall rating of not less than~~  
12 ~~"satisfactory" in its most recent evaluation by the~~  
13 ~~appropriate federal financial supervisory agency of the~~  
14 ~~credit union's record of meeting the credit needs of the~~  
15 ~~state's communities, including low and~~  
16 ~~moderate-income neighborhoods, pursuant to Section~~  
17 ~~2906 of Title 12 of the United States Code.~~

18 (b) An eligible savings and loan association or credit  
19 union is eligible to receive deposits only to the extent it  
20 furnishes the security required by this chapter.

21 *SEC. 3. Section 53635 of the Government Code is*  
22 *amended to read:*

23 53635. As far as possible, all money belonging to, or in  
24 the custody of, a local agency, including money paid to  
25 the treasurer or other official to pay the principal,  
26 interest, or penalties of bonds, shall be deposited for  
27 safekeeping in state or national banks, savings associations  
28 or federal associations, credit unions, or federally insured  
29 industrial loan companies in this state selected by the  
30 treasurer or other official having the legal custody of the  
31 money; or, unless otherwise directed by the legislative  
32 body pursuant to Section 53601, may be invested in the  
33 investments set forth below. *To be eligible to receive local*  
34 *agency money, a bank, savings association, federal*  
35 *association, or federally insured industrial loan company*  
36 *shall have received an overall rating of not less than*  
37 *"satisfactory" in its most recent evaluation by the*  
38 *appropriate federal financial supervisorial agency of its*  
39 *record of meeting the credit needs of California's*  
40 *communities, including low- and moderate-income*

1 *neighborhoods, pursuant to Section 2906 of Title 12 of the*  
2 *United States Code.* A local agency purchasing or  
3 obtaining any securities described in this section, in a  
4 negotiable, bearer, registered, or nonregistered format,  
5 shall require delivery of all the securities to the local  
6 agency, including those purchased for the agency by  
7 financial advisers, consultants, or managers using the  
8 agency's funds, by book-entry, physical delivery, or by  
9 third-party custodial agreement. The transfer of  
10 securities to the counterparty bank's customer book entry  
11 account may be used for book-entry delivery. For  
12 purposes of this section, "counterparty" means the other  
13 party to the transaction. A counterparty bank's trust  
14 department or separate safekeeping department may be  
15 used for the physical delivery of the security if the  
16 security is held in the name of the local agency. Where  
17 this section specifies a percentage limitation for a  
18 particular category of investment, that percentage is  
19 applicable only at the date of purchase.

20 (a) Bonds issued by the local agency, including bonds  
21 payable solely out of the revenues from a  
22 revenue-producing property owned, controlled, or  
23 operated by the local agency or by a department, board,  
24 agency, or authority of the local agency.

25 (b) United States Treasury notes, bonds, bills, or  
26 certificates of indebtedness, or those for which the faith  
27 and credit of the United States are pledged for the  
28 payment of principal and interest.

29 (c) Registered state warrants or treasury notes or  
30 bonds of this state, including bonds payable solely out of  
31 the revenues from a revenue-producing property owned,  
32 controlled, or operated by the state or by a department,  
33 board, agency, or authority of the state.

34 (d) Bonds, notes, warrants, or other evidences of  
35 indebtedness of any local agency within this state,  
36 including bonds payable solely out of the revenues from  
37 a revenue-producing property owned, controlled, or  
38 operated by the local agency, or by a department, board,  
39 agency, or authority of the local agency.

1 (e) Obligations issued by banks for cooperatives,  
2 federal land banks, federal intermediate credit banks,  
3 federal home loan banks, the Federal Home Loan Bank,  
4 the Tennessee Valley Authority, or in obligations,  
5 participations, or other instruments of, or issued by, or  
6 fully guaranteed as to principal and interest by, the  
7 Federal National Mortgage Association; or in guaranteed  
8 portions of Small Business Administration notes; or in  
9 obligations, participations, or other instruments of, or  
10 issued by, a federal agency or a United States  
11 government-sponsored enterprise.

12 (f) Bills of exchange or time drafts drawn on and  
13 accepted by a commercial bank, otherwise known as  
14 bankers acceptances. Purchases of bankers acceptances  
15 may not exceed 270 days maturity or 40 percent of the  
16 agency's surplus funds which may be invested pursuant  
17 to this section. However, no more than 30 percent of the  
18 agency's surplus funds may be invested in the bankers  
19 acceptances of any one commercial bank pursuant to this  
20 section.

21 This subdivision does not preclude a municipal utility  
22 district from investing any surplus money in its treasury  
23 in any manner authorized by the Municipal Utility  
24 District Act, Division 6 (commencing with Section 11501)  
25 of the Public Utilities Code.

26 (g) Commercial paper of "prime" quality of the  
27 highest ranking or of the highest letter and numerical  
28 rating as provided for by Moody's Investors Service, Inc.,  
29 or Standard and Poor's Corporation. Eligible paper is  
30 further limited to issuing corporations that are organized  
31 and operating within the United States and having total  
32 assets in excess of five hundred million dollars  
33 (\$500,000,000) and having an "A" or higher rating for the  
34 issuer's debt, other than commercial paper, if any, as  
35 provided for by Moody's Investors Service, Inc., or  
36 Standard and Poor's Corporation. Purchases of eligible  
37 commercial paper may not exceed 180 days maturity nor  
38 represent more than 10 percent of the outstanding paper  
39 of an issuing corporation. Purchases of commercial paper  
40 may not exceed 15 percent of the agency's surplus money

1 which may be invested pursuant to this section. An  
2 additional 15 percent, or a total of 30 percent of the  
3 agency's money or money in its custody, may be invested  
4 pursuant to this subdivision. The additional 15 percent  
5 may be so invested only if the dollar-weighted average  
6 maturity of the entire amount does not exceed 31 days.  
7 "Dollar-weighted average maturity" means the sum of  
8 the amount of each outstanding commercial paper  
9 investment multiplied by the number of days to maturity,  
10 divided by the total amount of outstanding commercial  
11 paper.

12 (h) Negotiable certificates of deposit issued by a  
13 nationally or state-chartered bank or a savings association  
14 or federal association or a state or federal credit union or  
15 by a state-licensed branch of a foreign bank. Purchases of  
16 negotiable certificates of deposit may not exceed 30  
17 percent of the agency's surplus money which may be  
18 invested pursuant to this section. For purposes of this  
19 section, negotiable certificates of deposit do not come  
20 within Article 2 (commencing with Section 53630) of  
21 Chapter 4 of Part 1 of Division 2 of Title 5, except that the  
22 amount so invested shall be subject to the limitations of  
23 Section 53638. For purposes of this section, the legislative  
24 body of a local agency and the treasurer or other official  
25 of the local agency having legal custody of the money are  
26 prohibited from depositing or investing local agency  
27 funds, or funds in the custody of the local agency, in  
28 negotiable certificates of deposit issued by a state or  
29 federal credit union if a member of the legislative body  
30 of the local agency, or an employee of the administrative  
31 officer, manager's office, budget office,  
32 auditor-controller's office, or treasurer's office of the local  
33 agency also serves on the board of directors, or any  
34 committee appointed by the board of directors, or the  
35 credit committee or supervisory committee of the state  
36 or federal credit union issuing the negotiable certificates  
37 of deposit.

38 (i) (1) Investments in repurchase agreements or  
39 reverse repurchase agreements, or securities lending  
40 agreements of any securities authorized by this section,

1 so long as the agreements are subject to this subdivision,  
2 including the delivery requirements specified in this  
3 section.

4 (2) Investments in repurchase agreements or  
5 securities lending agreements may be made, on any  
6 investment authorized in this section, when the term of  
7 the agreement does not exceed one year. The market  
8 value of securities that underlay a repurchase agreement  
9 shall be valued at 102 percent or greater of the funds  
10 borrowed against those securities and the value shall be  
11 adjusted no less than quarterly. Since the market value of  
12 the underlying securities is subject to daily market  
13 fluctuations, the investments in repurchase agreements  
14 shall be in compliance if the value of the underlying  
15 securities is brought back up to 102 percent no later than  
16 the next business day.

17 (3) Reverse repurchase agreements may be utilized  
18 only when either of the following conditions are met:

19 (A) The security was owned or specifically committed  
20 to purchase, by the local agency, prior to repurchase  
21 agreement on December 31, 1994, and was sold using a  
22 reverse repurchase agreement or securities lending  
23 agreement on December 31, 1994.

24 (B) The security to be sold on reverse repurchase  
25 agreement or securities lending agreement has been  
26 owned and fully paid for by the local agency for a  
27 minimum of 30 days prior to sale; the total of all reverse  
28 repurchase agreements and securities lending  
29 agreements on investments owned by the local agency  
30 not purchased or committed to purchase, prior to  
31 December 31, 1994, does not exceed 20 percent of the  
32 base value of the portfolio; and the agreement does not  
33 exceed a term of 92 days, unless the agreement includes  
34 a written codicil guaranteeing a minimum earning or  
35 spread for the entire period between the sale of a security  
36 using a reverse repurchase agreement or securities  
37 lending agreement and the final maturity date of the  
38 same security.

39 (4) After December 31, 1994, a reverse repurchase  
40 agreement or securities lending agreement may not be



1 entered into with securities not sold on a reverse  
2 repurchase agreement or securities lending agreement  
3 and purchased, or committed to purchase, prior to that  
4 date, as a means of financing or paying for the security  
5 sold on a reverse repurchase agreement or securities  
6 lending agreement, but may only be entered into with  
7 securities owned and previously paid for a minimum of 30  
8 days prior to the settlement of the reverse repurchase  
9 agreement or securities lending agreement, in order to  
10 supplement the yield on securities owned and previously  
11 paid for or to provide funds for the immediate payment  
12 of a local agency obligation. Funds obtained or funds  
13 within the pool of an equivalent amount to that obtained  
14 from selling a security to a counterparty by way of a  
15 reverse repurchase agreement or securities lending  
16 agreement, on securities originally purchased subsequent  
17 to December 31, 1994, shall not be used to purchase  
18 another security with a maturity longer than 92 days from  
19 the initial settlement date of the reverse repurchase  
20 agreement or securities lending agreement, unless the  
21 reverse repurchase agreement or securities lending  
22 agreement includes a written codicil guaranteeing a  
23 minimum earning or spread for the entire period  
24 between the sale of a security using a reverse repurchase  
25 agreement or securities lending agreement and the final  
26 maturity date of the same security. Reverse repurchase  
27 agreements or securities lending agreements specified in  
28 subparagraph (B) of paragraph (3) may not be entered  
29 into unless the percentage restrictions specified in that  
30 subparagraph are met, including the total of any reverse  
31 repurchase agreements or securities lending agreements  
32 specified in subparagraph (A) of paragraph (3).

33 (5) Investments in reverse repurchase agreements,  
34 securities lending agreements, or similar investments in  
35 which the local agency sells securities prior to purchase  
36 with a simultaneous agreement to repurchase the  
37 security, may only be made upon prior approval of the  
38 governing body of the local agency and shall only be  
39 made with primary dealers of the Federal Reserve Bank  
40 of New York.



(6) (A) “Repurchase agreement” means a purchase of securities by the local agency pursuant to an agreement by which the counterparty seller will repurchase the securities on or before a specified date and for a specified amount and the counterparty will deliver the underlying securities to the local agency by book entry, physical delivery, or by third-party custodial agreement. The transfer of underlying securities to the counterparty bank’s customer book-entry account may be used for book-entry delivery.

(B) “Securities,” for purpose of repurchase under this subdivision, means securities of the same issuer, description, issue date, and maturity.

(C) “Reverse repurchase agreement” means a sale of securities by the local agency pursuant to an agreement by which the local agency will repurchase the securities on or before a specified date, and includes other comparable agreements.

(D) “Securities lending agreement” means an agreement under which a local agency agrees to transfer securities to a borrower who, in turn, agrees to provide collateral to the local agency. During the term of the agreement, both the securities and the collateral are held by a third party. At the conclusion of the agreement, the securities are transferred back to the local agency in return for the collateral.

(E) For purposes of this section, the base value of the local agency’s pool portfolio shall be that dollar amount obtained by totaling all cash balances placed in the pool by all pool participants, excluding any amounts obtained through selling securities by way of reverse repurchase agreements or other similar borrowing methods.

(F) For purposes of this section, the spread is the difference between the cost of funds obtained using the reverse repurchase agreement or securities lending agreement and the earnings obtained on the reinvestment of the funds.

(j) Medium-term notes, defined as all corporate and depository institution debt securities with a maximum remaining maturity of five years or less, issued by

1 corporations organized and operating within the United  
2 States or by depository institutions licensed by the United  
3 States or any state and operating within the United States.  
4 Notes eligible for investment under this subdivision shall  
5 be rated “A” or better by a nationally recognized rating  
6 service. Purchases of medium-term notes shall not  
7 include other instruments authorized by this section and  
8 may not exceed 30 percent of the agency’s surplus money  
9 which may be invested pursuant to this section.

10 (k) (1) Shares of beneficial interest issued by  
11 diversified management companies that invest in the  
12 securities and obligations as authorized by subdivisions  
13 (a) to (j), inclusive, or subdivision (l) or (m) and that  
14 comply with the investment restrictions of this article and  
15 Article 1 (commencing with Section 53600). However,  
16 notwithstanding these restrictions, a counterparty to a  
17 reverse repurchase agreement or securities lending  
18 agreement is not required to be a primary dealer of the  
19 Federal Reserve Bank of New York if the company’s  
20 board of directors finds that the counterparty presents a  
21 minimal risk of default, and the value of the securities  
22 underlying a repurchase agreement or securities lending  
23 agreement may be 100 percent of the sales price if the  
24 securities are marked to market daily.

25 (2) Shares of beneficial interest issued by diversified  
26 management companies that are money market funds  
27 registered with the Securities and Exchange Commission  
28 under the Investment Company Act of 1940 (15 U.S.C.  
29 Sec. 80a-1 and following).

30 (3) If investment is in shares issued pursuant to  
31 paragraph (1), the company shall have met either of the  
32 following criteria:

33 (A) Attained the highest ranking or the highest letter  
34 and numerical rating provided by not less than two  
35 nationally recognized statistical rating organizations.

36 (B) Retained an investment adviser registered or  
37 exempt from registration with the Securities and  
38 Exchange Commission with not less than five years’  
39 experience investing in the securities and obligations  
40 authorized by subdivisions (a) to (j), inclusive, or

1 subdivision (l) or (m) and with assets under  
2 management in excess of five hundred million dollars  
3 (\$500,000,000).

4 (4) If investment is in shares issued pursuant to  
5 paragraph (2), the company shall have met either of the  
6 following criteria:

7 (A) Attained the highest ranking or the highest letter  
8 and numerical rating provided by not less than two  
9 nationally recognized statistical rating organizations.

10 (B) Retained an investment adviser registered or  
11 exempt from registration with the Securities and  
12 Exchange Commission with not less than five years'  
13 experience managing money market mutual funds with  
14 assets under management in excess of five hundred  
15 million dollars (\$500,000,000).

16 (5) The purchase price of shares of beneficial interest  
17 purchased pursuant to this subdivision shall not include  
18 any commission that the companies may charge and shall  
19 not exceed 20 percent of the agency's surplus money that  
20 may be invested pursuant to this section. However, no  
21 more than 10 percent of the agency's surplus funds may  
22 be invested in shares of beneficial interest of any one  
23 mutual fund pursuant to paragraph (1).

24 (l) Notes, bonds, or other obligations which are at all  
25 times secured by a valid first priority security interest in  
26 securities of the types listed by Section 53651 as eligible  
27 securities for the purpose of securing local agency  
28 deposits having a market value at least equal to that  
29 required by Section 53652 for the purpose of securing  
30 local agency deposits. The securities serving as collateral  
31 shall be placed by delivery or book entry into the custody  
32 of a trust company or the trust department of a bank  
33 which is not affiliated with the issuer of the secured  
34 obligation, and the security interest shall be perfected in  
35 accordance with the requirements of the Uniform  
36 Commercial Code or federal regulations applicable to the  
37 types of securities in which the security interest is  
38 granted.

39 (m) Any mortgage passthrough security,  
40 collateralized mortgage obligation, mortgage-backed or

1 other pay-through bond, equipment lease-backed  
2 certificate, consumer receivable passthrough certificate,  
3 or consumer receivable-backed bond of a maximum of  
4 five years maturity. Securities eligible for investment  
5 under this subdivision shall be issued by an issuer having  
6 an “A” or higher rating for the issuer’s debt as provided  
7 by a nationally recognized rating service and rated in a  
8 rating category of “AA” or its equivalent or better by a  
9 nationally recognized rating service. Purchase of  
10 securities authorized by this subdivision may not exceed  
11 20 percent of the agency’s surplus money that may be  
12 invested pursuant to this section.

